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A

LETTER

TO

WILLIAM SMITH, Esq.

IN ANSWER TO HIS ADDRESS

TO

THE PEOPLE OF IRELAND;

In which his Assertion of an absolute despotic Power being
acknowledged by our Constitution is particularly examined.

BY

ONE OF THE PEOPLE.

Tam domiti ut parent, nondum ut serviant.

TACITVS.

DUBLIN:

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1799.

L E T T E R, &c.

NO apology can be necessary for addressing this Letter to you; your address to the People of Ireland is a sufficient justification.

From seeing your name in the title page, I was led to believe that I should find the subject debated with ability, and with temper; in the last, at least, I have been grievously disappointed. Much do I wish for the sake of your reputation, that it were now possible to erase from the public memory, those pages * of your work, containing not argument, but peevish and illiberal insinuations against those persons who oppose you on this question: open accusation, tho' unfounded, may have something manly in it; but to attack a character by hints which cannot be mistaken, tho' at the same time, they are always capable of being explained away, is mean and pitiful. This at least I shall avoid.

You begin your argument by stating an imaginary case; "Suppose," you say, "that the
B "entire

* Almost passim, but particularly from page 51 to 56, and the note on page 94.

“entire of our establishment, except the one
 “principle of imperial Union, were effaced, or
 “rather that it had not come into existence;
 “and suppose, that addressing ourselves to some
 “modern Solon, we should enquire how many
 “independent Legislatures this one Empire
 “ought to contain: do you think it likely that
 “he would recommend more than one?” (p. 3.)

His answer perhaps might be such as you expect; but let us vary the terms of the question, so as to correspond with our actual situation; let us state, that our newly acquired independence, has been attended by prosperity unexampled; that our progress in improvement has been greater in the twenty years which have succeeded our liberation, than in the century which preceded it; and that no other cause but the restoration of independence can be suggested for this advancement. What then would be the answer of this modern Solon? would he advise us to shape our course by the often delusive Ignis Fatuus, theory, or by the unerring polar star, experience.

You state, that if two independent Parliaments are allowed to “subsist, to preserve the
 “connexion, it will be necessary to establish such
 “an influence in the Irish one, as will render it
 “subordinate, which would either spread a
 “contagion fatal to the virtues and liberties
 “of the country, or rob the Parliament of
 “public confidence, the Constitution of public
 “reverence, and the Kingdom of Prosperity and
 “Peace;” (p. 5.) to this the proud event of Friday last is an irrefragable answer. On that day we saw 109 members of our Commons stand forward unawed and unseduced in vindication
 of

of the virtue and liberty of their Country, and in *these* the public confidence is unshaken. But, Sir, the connexion of the countries is secured by a stronger and more durable tie than any influence could form; it is secured by their mutual interest: and I do from my Soul believe, that an Union effected against the wishes of the People, is almost the only event within the verge of possibility, which can at all endanger it. While the connexion subsists on its present terms, every thinking man in the kingdom must be its well-wisher, and there will probably be no violent acts of aggression on either side to interrupt it; but should an Union be forced upon the nation, either by the Parliament or the Bayonet, the people will be discontented, *trifles light as air* will be considered as serious injuries; every act of the united Parliament will be thought oppressive; agitators or emissaries will take advantage of the general disaffection, the persons naturally most interested and most able to counteract them will be absent: the Government must become purely military, or a Rebellion will be inevitable—the consequence no one can foresee. Indeed the whole of this argument of Danger from the Legislatures being separate, would equally apply to the formation of the Legislatures themselves. It is possible, that the House of Lords and of Commons might disagree, and the public Business by that means stand still; but experience, our surest guide, has shewn us that in both cases the danger is but visionary.

You say, that the “objection of the British Representation outweighing the Irish in point of numbers” is absurd; for that if the
 “Repre-

“ Representatives do their Duty, each will prefer the welfare of the whole Empire, to the advantage of any part” “ that the People of Yorkshire might make it as reasonably as we.” (p. 7) But Sir I would not trust, to what may be the duty of the British Representative, where Ireland is concerned, and where his own Interest may appear to draw the contrary way: if we could be sure of perfect wisdom and perfect justice, an absolute government in a single person would be the best Form that could be devised, but our Constitution not expecting perfection in this world, has adopted quite opposite principles; it is from beginning to end, a system of checks, a system of distrust: if we have this confidence in the rectitude of the British Representative, why send Representatives at all from hence: would it not be better at once to entrust the whole power formally (as it will be really) to the British Parliament.

But this argument you say would equally apply to Yorkshire, its members are *overpowered* by the united voice of the Representatives from the rest of the kingdom: but mark the difference, if the Interest of Yorkshire and of any other part of Great Britain should appear to be at variance, the Representatives from the rest of the kingdom may be in some respect considered as arbitrators between them, and may be expected to be indifferent and impartial, but long, very long, will it be, I fear, before we can reasonably hope that the British Parliament will hold the balance with an even hand, when any measure in which the local interest of this Country and of any part of England may seem

to

to be repugnant, is under examination. I cannot forget the embargo not many years ago, (*nimum meminisse neceſſe eſt*) a glorious ſpecimen of what we may expect from Britiſh generoſity, when our moſt *commercial* cities, our moſt fertile province were plunged in diſtreſs little ſhort of ruin, for the purpoſe of enriching two or three contractors in London.

You now Sir tell us, “that by obtaining an Union on juſt and equitable terms, Ireland would exchange its diſtinct Legiſſature for ſuch an efficient ſhare in the imperial councils as would enſure a full participation in the benefits of the Britiſh Conſtitution.” (p. 8) that is, we are to give up the excluſive controul over our own concerns, in exchange for being allowed to participate in the regulation of Britiſh affairs: for my part, I have no ambition to ſhare in the legiſſature of Great Britain, and I deprecate her having power to make laws for me; therefore as far as relates to me and thoſe who think like me, what we are to receive is undeſired, unvalued; therefore what we are to give up is without conſideration, without equivalent.

What you mean by juſt and equitable terms you have already defined a “quantity of Irish Representation, commenfurate to Irish power, reſources and contribution.” (p. 7.) if we *admit* the expediency of an Union, as to quantity this is ſufficiently plauſible: let us now conſider it in reſpect of quality: if this meaſure was to take place, how many perſons would the people of Ireland have to chuſe their Representatives from amongſt: how many are there in this country whoſe fortune would enable them to undertake the taſk without imprudence

prudence, except indeed they were to consider it (as possibly some would) as a speculation of traffic; at all events the whole bar, the whole commercial interest, every gentleman who attends to the cultivation of his estate; in short every one of every description who has any thing to do, must be utterly excluded: the representation must devolve, certainly upon the idle, probably upon the ignorant, and these are the persons who are to be sent to support the cause of their country, against the united weight of the talent, commercial knowledge, and information of every kind, of Great Britain.—I know, Sir, you will answer, there can be no opposition of interests,—If that is the case, if Ireland does not want any particular guardians, why send Representatives at all? I repeat, it would be more manly and more wise, to surrender every thing expressly to the justice or the mercy of the British Parliament, than thus to mock the People with a shadow of Representation—View the measure as you will, it must appear calculated,

“ Under fair pretence of friendly ends;

“ And well plac'd words of glozing courtēsy

“ Baited with reasons not unplaussible

“ To wind into the easy hearted Man,

“ And hug him into snares

MILTON.

Your argument relative to the propositions, (which it is sufficiently notorious were rejected solely on constitutional grounds) appears to me so very extraordinary, that lest I should be supposed to misrepresent it, I shall give it at length,
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in your own words, “ now the reader cannot
 “ but observe, that this (viz. the constitutional)
 “ ground of opposition, would not be weaken-
 “ ed by the commercial advantages of the pro-
 “ posed system; be this system never so beneficial
 “ to the trade of Ireland, the grounds for ob-
 “ jecting to it, as derogatory from the Inde-
 “ pendence of the Irish legislature, would remain
 “ the same; and thus, if the objection were
 “ founded in principle and fact, (i. e. if the
 “ fourth resolution did really derogate from the
 “ authority of the Irish Parliament,) Ireland
 “ could not, without betraying her Constituti-
 “ onal rights, accept a system the most palpa-
 “ bly and splendidly beneficial to her Trade,
 “ which was clogged with the provisions of this
 “ fourth resolution. Yet after all, what were
 “ those provisions? *Only that all laws made, or*
 “ *to be made in Great Britain respecting certain*
 “ *matters of Trade and Navigation, which were*
 “ *connected with that commercial settlement,*
 “ *should be in force here, by the adoption of the*
 “ *Irish Parliament.*” (p. 14.) Pray, Sir, if this
 fourth resolution had been acceded to, of what
 consequence could it have been, how palpably and
 splendidly beneficial the system might have been?
 if Great Britain chose to overthrow it the next
 day, would not the Irish Parliament have been
 bound to adopt the destruction? It is a maxim in
 the law of nature, that a man has not a right to
 sell himself for a slave, and for this reason,
 that he can receive no consideration for his
 liberty; for the instant he parts with it, not
 only himself but every thing that belonged to
 him, *the very price he has just received* becomes
 the property of his master; is not this equally
 true

true of nations? You allow that it might be objected, and that the objection would be not without weight: "that thus to conform to what the British legislature should prescribe, would be to turn the Irish Parliament into a mere registry of the legislative edicts of Britain, and to violate the recognized Independence of the Irish Legislature," (p. 15.) and your expedient to get rid of this objection is an Union: an Union is to save the recognized Independence of the Irish Legislature from violation, an Union, that takes away our Constitutional guardians, is to ensure the observance of the articles of the treaty: an Union is to "reconcile commercial advantages with Constitutional right." (p. 16.)

On the competence of Parliament to effect this measure, you have given a very decided opinion indeed. On that "point you do not entertain the slightest doubt," (p. 18.) yet I have heard gentlemen of your profession, whose authority is not esteemed contemptible, express sentiments directly opposite to yours, and with nearly equal confidence.

I shall now examine your opinion as "founded on precedent, on the mischiefs which must result from a contrary doctrine, on the express authority of Constitutional writers, and on the genuine principles of the Constitution." (Ibid.)

"By enacting Union, you say, Parliament would do no more than change, it would not surrender or subvert the Constitution. This country would after a Legislative incorporation, be still governed as at present by three estates, and her inhabitants possessed of all the privileges of the British People." (Ibid.) Now Sir your first position I do expressly deny,

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an House of Commons chosen *solely and exclusively* by the People of Ireland, is a branch of the Legislature essential to the existence of the Constitution. It is not in the numerical adjustment of the estates, but in the integral parts of which the individual estates are composed, that the essence of the Constitution consists; should an Union take place, instead of our present happy Constitution we shall be,

beguiled with a counterfeit
 Resembling Liberty, which touch'd and try'd
 proves valueless

You now refer to the septennial Act 1st. Geo. 1st. (which prolonged the duration of Parliament from three to seven Years,) as “ a direct precedent in point.” (p. 19.) Of the justice or propriety of this act, I give no opinion, but I cannot admit, that by it the Constitution was altered in the smallest degree. The limitation of the duration of Parliament to three Years, was not one of those essential eternal fundamental principles of the Constitution, which subsist independent of positive law. It was founded solely on an act of Parliament made 6th William and Mary: If the Parliament that sat 6th William and Mary had a right to make a law limiting the duration of Parliament, the Parliament that sat 1st. George had a right to repeal it; if the Parliament of William had a right to limit the duration of Parliament to any one period, the Parliament of George had a right to limit it to any other. The latter act might have been improper, inexpedient and unjust, but there is certainly no grounds for construing it an usurpation of power, not acknowledged by Constitution.

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You

You would infer the right of the Legislature to change the Constitution, from the power it has often exerted of new modelling the succession to the Crown, which you call "a most important Constitutional change indeed;" (p. 20.) now Sir I do deny that it is any *Constitutional* change whatever; and I refer you for my authority to *Blackstone. After a warm and just eulogium on the temper and moderation, with which the Convention by whom the Revolution was effected, conducted themselves, he goes on to say. "They very prudently voted it (the misconduct of James) to amount to no more than an abdication of the Government, and a consequent vacancy of the Throne, whereby the Government was allowed to subsist, though the executive magistrate was gone, and the kingly office to remain, though King James was no longer King; and *thus the constitution was kept entire*, which upon every sound principle of Government, must otherwise have fallen to pieces, had so principal and constituent a part as the royal authority been abolished, or even suspended." Here Sir we see Blackstone (so far from sanctioning your dictum that the new modelling the succession to the Crown was a most important Constitutional change,) expressly applauding the prudence of the Convention in changing the King, *new modelling the succession*, and leaving the Constitution unaltered. Surely, Sir, when you say that it can change the Constitution, you do not mean to assert that †Parliament is *competent* (should a moment of delusion arrive) to abolish

* Bla. Comm. B. 1st. Ch. 3d.

† I use Parliament in its strict legal sense viz King, Lords, and Commons.

abolish the Kingly office, or to destroy the political existence of the House of Lords, or House of Commons and if you do not, are you prepared to assert, that the existence of the House of Commons of Ireland is not virtually destroyed, when five sixths of it are chosen by the People of Great Britain; or that the destruction of one estate is not the destruction of the whole.

You say “ the Constitutional dependence of our religious establishment on the competence of Parliament to change the Constitution, is a topic which I am content to hint, not thinking it necessary to enlarge upon it.” (p. 20.) You are in the right of it: the reign of Henry the eighth is not exactly the period of our history, to which a prudent advocate would recur, in search of Constitutional precedents; but independent of this radical objection, the precedent itself proves nothing. At the time our present religious establishment took place, the tenets of the reformed church had made their way almost universally through the Kingdom, and would have been publicly and generally professed, but through fear of the power of the state. Was it to be expected that the People of that day would oppose a change in which they rejoiced, merely through a doubt of the power of Parliament to lawfully effect it: or is their acquiescence in a measure they approved, to be brought as an example to inculcate submission in us to a measure we abhor? But Sir when you were searching for old precedents, I wonder it did not occur to you to look at a case that appears more immediately in point, I mean the resignation of his Crown and of the independence of his Kingdoms, by King John. Even in these rude times, when arbitrary power and religious prejudices so universally prevailed

vailed, when constitutional rights were so little known, what was the conduct of the people. We find it recorded by John himself in a letter to the Pope "cum comites et Barones nobis
 " devoti sunt, antequam nos et nostram terram,
 " dominio vestro, subjicere curassémus, extunc
 " in nos, specialiter ob hoc, sicut publice di-
 " cunt, violenter infurgunt." * no doubt every formal precaution had been taken to make the surrender appear legal and valid, but there was a radical defect which was insurmountable, the want of *competency* to hand over the people without their consent, to another master: and about a century afterwards, when the Pope attempted to usurp temporal power in England, an association of the principal people, sent the following answer to his demands, sealed with their seals, which expresses very nearly the sentiments of the county meetings of this day.
 " ad observationem et defensionem libertatum,
 " consuetudinum, et legum paternarum, ex debito præstiti sacramenti astringimur, quæ manutenebimus toto posse, totisque viribus dei auxilio defendemus, nec etiam permittimus, nec *aliquatenus permittemus*, sicut nec possumus nec debemus præmissa tam insolita, indebita, præjudicialia, et alias inaudita, *dominum regem, etiamsi vellet*, facere, seu quomolibet attemptare." (Ibid.)

The example of the Scottish Union, and the danger of shaking it, you have urged with much plausibility. "To controvert the right of the Irish Parliament to conclude an Union is, by inevitable implication, to deny the validity of that Scottish incorporation which was concluded

* Rymers Fadera.

“ cluded by the not more competent Parliament
 “ of Scotland” and again you say if that is de-
 nied “ what becomes of the force of that act of
 “ renunciation which passed in 1783, and which
 “ Ireland has vainly mistaken for the corner
 “ stone of her liberties and Constitution” (p. 24)
 Now, Sir, is this ignorance or is it wilful mis-
 representation, can it be possible that you should
 at this day not know that the Parliament of
 Scotland did not treat of or conclude the Uni-
 on *solely* in their capacity of members of the
 Parliament, they treated of it and concluded
 it, as deputies from the Scottish nation *for that ex-
 press purpose*. Lord Somers, under whose auspices
 the Union was principally effected, *was a con-
 stitutional Lawyer*, he was conscious of the in-
 competency of the Scottish Parliament, merely
 as a Parliament, to vote away the independence
 of their country; he knew that their competency
 “ was a matter of the greatest moment to him
 “ as an Englishman” (p. 22) he therefore took
 care that they should have full and incontesti-
 ble powers; *He appealed to the People*: the sum-
 mons, that called the Parliament together, ex-
 pressly stated, that to treat of the Union of the
 two kingdoms, was one of their objects of their
 meeting: the People were purchasers with no-
 tice; *there was nothing underhand, nothing mysterious, no-
 thing concealed*: the measure in contemplation was
 notorious thro’ the kingdom, months before the
 Parliament met, weeks before it was chosen;
 are the cases similar? rather is there not such a
 radical distinction between them, as makes all
 arguments drawn from the one totally irrele-
 vant to the other. I cannot however dismiss this
 part of the argument, without an observation on
 the extreme silliness of your insinuation, that Irish
 independence is at all connected with the va-
 lidity

lidity of the Scottish Union. The act of renunciation became necessary, in consequence of the act of 6th George 1. (many years after the Union) asserting the right of the British Parliament to make laws to bind Ireland: both acts were made by the British Parliament, similarly constituted, they must be therefore either both valid, or both invalid, in either case the effect as to this kingdom will be the same.

We came now Sir, to consider constitutional authorities: you, Sir, not satisfied with maintaining the competence of Parliament to effect the measure in question, do assert that it possesses absolute unlimited despotic power. This position, so discordant from those principles which I have ever been taught to believe were constitutional, laid down so broadly, by a Lawyer of reputation, did not a little surprize me, and I determined to investigate minutely the grounds on which it was supported, and I can now with confidence affirm, and upon the very highest authority, that it is utterly unfounded in the Laws or Constitution of these kingdoms: I do on the contrary contend, that there are certain fundamental laws, so essentially inherent to the Constitution, that *Parliament cannot alter* them, without at the same time destroying the Constitution itself

I am well aware, that detached sentences may be selected from * Coke and Blackstone, which will appear to support the position you have laid down. I have the highest respect for the authority of those eminent names, but on the question of how far the competence of Parliament does extend, they have given no direct opinion. They were Lawyers, writing upon municipal law; the discussion of constitutional points was not within their

* Whom however, you have quoted neither accurately nor fairly.

their limits, or at all in their contemplation † — That Parliament is competent to every act, that is not a violation of the Constitution, no one will deny, and I believe a candid and attentive reader will find nothing more asserted by either Coke or Blackstone; indeed there are instances given by both (of which I shall take notice hereafter) of Acts to which Parliament is incompetent; but I have founded my opinion upon higher authority, than that of either Coke or Blackstone; I have founded it on the authority of the Parliament and People of England, and on that authority I do assert, that, “to endeavour to subvert the Constitution of the kingdom, to break the original contract between King and People, to violate the fundamental laws,” would be an * abdication of the Crown on the part of the King; and it will scarcely be contended, that the King is the only branch of the Legislature, that may not with impunity endeavour to subvert the Constitution, that the King is the only member of the Parliament that has an original contract with the people, that the King alone is forbidden to violate the fundamental laws.

You Sir may perhaps reply that the declaration to which I have alluded, was not the declaration of a Parliament but of a Convention; I admit it; and from that very circumstance, my argument gains additional strength; an attempt was made by the King to subvert the Constitution, &c. and the People, by *their own authority*, declared it an abdication of his Crown. It may be said, that there was no Parliament in existence at that time, which

* The Parliament of Scotland called it a Forfeiture.

† That Coke was not intending to speak *by the Bard*, is evident from his having described the Star Chamber in nearly the same words as the Parliament; “*curia cameræ stellatæ sive tustatem spectemus, est antiquissima, si dignitatem honoratissima.*” 4th inst. 65.

which made the interference of the People indispensable; no such thing: had the Parliament been subsisting, it could not have acted in its artificial political capacity, the first Act after the Restoration (which declared that the two houses without the King had no legislative authority) stood directly in the way, there would have been, even in that case, therefore, no alternative, but for them to proceed in their natural capacity, as part of the people. This declaration of the convention was afterwards *ex abundanti cautela* formally ratified by the succeeding Parliament: indeed except upon the principle of that declaration, the Parliament was itself an illegal assembly, except upon the principle of that declaration, the bill of rights, which established our liberties, and placed the Crown upon the head of William, was nugatory and invalid.

In the treaty of Union between England and Scotland, there are recited two acts of Parliament, one of each kingdom, providing for the security of their respective established churches, and it is an article of the treaty, that these two acts "shall for ever be observed as (*fundamental and essential conditions of the Union*;)” were these last words, which appear in this article, and *in this alone*, lightly or accidentally inserted, or have they a meaning? if the latter, will you be hardy enough to contend, that the Parliament of Great Britain at this day, is *competent* to establish episcopacy in Scotland, or to abolish it in England.

On these public and indisputable documents I ground my conviction (in direct opposition to what you have laid down) that there are certain fundamental laws, beyond the power of Parliament to alter, and that consequently it does not possess an absolute unlimited despotic power.

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If I have succeeded in establishing this general position, it now remains to be proved, that the measure in agitation, is one of those, to which the power of Parliament is not competent, and for this purpose, I shall adduce only such arguments as are founded upon the authority of writers of the most established reputation, both on the general law of nations, and on the particular law of England.—The names of Grotius, of Puffendorf and of Locke, are doubtless familiar to you, their respectability you will scarcely deny, the two first at least can never be suspected of leaning too much to the side of popular encroachment.—I had prepared a number of extracts from these authorities, but as the sentiments of the writer may as well be collected from a single passage as from a volume, I deem it unnecessary to encrease the size of this book by inserting more than one or two from each. To you Sir, it cannot be necessary to observe, (though it may to others) that Grotius and Puffendorf treating only of absolute monarchical governments (except where limited ones are expressly mentioned) Rex and the supreme power of the state, are through their works to be considered as synonymous. “ Si tamen Rex reip̄sa etiam
 “ tradere Regnum, aut subicere moliat̄ur, quin
 “ ei resisti, in hoc possit, non dubito, aliud est
 “ enim, ut diximus, Imperium, alius habendi Mo-
 “ dus, qui ne mutetur, obstare potest populus.”*
 D “ Summa

* Grotius de Jure Belli et Pacis, Book I, Chap. 4, Sect. 10.

“ Summa huc redit, nihil agere Regem, qui
 “ regnum in alium, *propria auctoritate* transferre
 “ aggreditur, nec subditos isto actu Regis teneri,
 “ verum huic, non minus populi, quam Regis
 “ consensum requiri, nam uti invito Rege, Reg-
 “ num non recte eripitur, ita nec invito populo,
 “ alius Rex obtrudi potest.” *

“ The Legislature cannot transfer the power of
 “ making laws to any other hands, for it being
 “ but a delegated power from the people, they
 “ who have it cannot pass it over to others; the
 “ people alone can appoint the form of the Com-
 “ monwealth, which is by constituting the Le-
 “ gislature and appointing in whose hands that
 “ shall be; and when the people have said, we
 “ we will submit and be governed by laws made
 “ by such men and in such forms, nobody else can
 “ say, other men shall make laws for them. The
 “ power of the Legislature being derived from
 “ the people by a positive voluntary act and In-
 “ stitution, can be no other than what that posi-
 “ tive act conveyed, which *being only to make laws*
 “ *and not to make Legislators*, the Legislative can
 “ have no power to transfer their authority of
 “ making laws, and place it in other hands.” †

“ Governments are dissolved from within when
 “ the Legislative is *altered*.—The Constitution of
 “ the

* Puffendorf de Legibus Naturæ et Gentium, Book VIII,
 Chap. 12, Sect. 6.

† Locke on Government, Part II, Chap. 11, Sect. 141.

“ the Legislative is the first and fundamental act
 “ of society, whereby provision is made for the
 “ continuance of the Union under the direction
 “ of persons authorized thereto, without which
 “ no one man or number of men, amongst them,
 “ can have authority of making laws which shall
 “ be binding to the rest.—When any one or
 “ more shall take upon them to make laws whom
 “ the people have not appointed so to do, *they*
 “ *make laws without authority, which the people are*
 “ *not therefore bound to obey.*” *

These writers on general law have spoken very unequivocally on this subject, let us now see whether they are supported by authors of character in the particular law of England—as I am determined to produce no evidence that is not entirely unexceptionable, I shall only call upon Coke and Blackstone, the authorities upon which your argument is entirely founded, and to their Testimony you can scarcely object—“ Though divers
 “ Parliaments have attempted to bar, restrain,
 “ suspend, qualify, or make void subsequent Parliaments, yet could they never effect it; for
 “ the latter Parliament hath ever power to abrogate, suspend, qualify, explain or make void
 “ the former in the whole or any part thereof,
 “ notwithstanding any words of restraint, prohibi-
 D 2 “ tion

* Locke on Government, Part II, Chap. 19, Sect. 212.

“ bition or penalty in the former.” † But you say a “ Union will not make void subsequent “ Parliaments, it will leave Ireland her three “ estates.” † page 28. This argument is too ridiculous to deserve an answer, it comes to this, if the numerical arrangement of three estates is preserved, it is immaterial how they are constituted, or of whom they are composed. This incompetency of Parliament to bind its successors, was the very cause that emboldened the people to entrust the power of making laws into its hands, from the consideration, that if by the infirmity of human nature, laws that were pernicious or inexpedient should be enacted, they could be done away either by the Parliament who made them, or at worst by their successors, over part of whom at least (at their elections) the people would have undisputed controul; but if this measure should take place, (*femel emissum volat irrevocabile verbum*) a law will be enacted which however pernicious or inexpedient it may be found will be beyond the power of the *Irish* Parliament to rescind, a law will be enacted over which the people of Ireland (however injurious it may prove to them) can have no controul, except by resorting to physical force.

But Lord Coke not only lays down, as theory, that Parliament may attempt certain things in
vain

† Coke's Institute, P. 43.

vain, but he gives a particular example of its incompetency.—“ Sundry Lords of Parliament, or six of them, and certain Knights of Shires of the Commons, or three of them, are authorized by the authority of Parliament, to examine, answer, and plainly determine, all the petitions exhibited in that Parliament, and the matters contained in the same, by their good advice and discretion. The high power of Parliament to be committed to a few, is holden to be against the dignity of a Parliament, and that no such commission ought to be granted.” * Here Lord Coke, the boasted authority by whom this measure is to be sanctioned, has expressly declared, that the Parliament of England cannot depute its powers *for a single Session* to men *selected from itself*, and yet it is contended, that the Parliament of Ireland is capable of deputing its powers *for ever* to men *of another nation*, and strange to tell, a casual dictum of Lord Coke’s, when treating of a subject totally irrelevant, is the very authority brought in support of it.

That Blackstone has laid down, in very unqualified terms, the omnipotence of Parliament, there is no doubt; but it is evident, not only from the tenor of his argument, but from his express words at the conclusion, that he was only considering it
in

* 4th Inst. 42.

in respect of its ordinary powers, “ *So long therefore as the Constitution of England lasts, we may venture to affirm that the power of Parliament is absolute and without controul.**” If then it can be established, that the act in question would be an alteration of the Constitution, all arguments founded on the authority of this passage in Blackstone must be at an end.—But when he comes to treat of the constitutional powers of Parliament, he leaves the matter no longer in doubt. “ Acts of Parliament (says he) derogatory from the power of subsequent Parliaments *bind not.*†” Could there be words more explicit, or can there be a case imagined to which they would more directly apply? Would not an Incorporating Union derogate from the power of the future Parliaments of Ireland, or rather would it not completely extinguish them?

Blackstone also, as well as Coke, gives a particular example of the incompetency of Parliaments.—“ Naturalization cannot be performed but by Act of Parliament, for by this an alien is put in exactly the same state as if he had been born in the King’s legiance, except only that he is incapable, as well as a denizen, of being a Member of the Privy Council or Parliament. No bill for naturalization *can be received* without

* Blackstone’s Commentaries, Book I. Chap. 2.

† Ibid. Introduction, 3.

“ without such disabling clause in it. † ” So that if we believe Blackstone, the British Parliament, with all its boasted omnipotence, has not the power to admit a *single person*, not a natural born subject, to exercise, in conjunction with 557 Britons, the sacred trust of legislating for the people of Great Britain, even though he should have been appointed for that purpose by the unanimous voice of the largest county in England. — What then are we to think of the competency of the Irish Legislature, virtually to transfer the whole of the power with which it has been entrusted to the Parliament of another kingdom, in the choosing of which the Irish People will have no share.

The adoption of the principle for which you contend will, I conceive, lead you into one of two inextricable difficulties.—Should the Union take place, the United Parliament will either be competent to dissolve it, or it will not; if the latter, the whole fabrick of omnipotence, which you have been at such pains to rear, tumbles to the ground at once; if the former, see the situation of Ireland. You will scarcely I believe deny, that (however improbable) it is still within the limits of possibility that the measure may fail of the success expected from it;

Prudens futuri temporis exitum
caliginosa nocte premit Deus.

if

† Blackstone's Commentaries, Book I. Chap. 10.

if it fails, it must be disadvantageous to at least one of the contracting parties, if that one should be Britain, (as I suppose all questions in the United Parliament must be determined, as elsewhere, by the majority) the Union will be dissolved at once, not an hour will it be allowed to subsist, on account of any benefits that may accrue to Ireland from it.—But should Ireland be the sufferer, how little will her feeble voice avail in Parliament, when the interest of Great Britain is her opponent.—The Union with Scotland gives us a remarkable warning. Very few years after it had taken place the malt tax was passed, directly against its Letter, you say not against its Spirit; however *all* the Scotch Lords of that day happened to think differently from you, and in consequence a motion was made, and supported by the whole Scotch Peerage, to repeal the Union, but which, as might be expected, was ineffectual. Should the Union prove beneficial to us, its duration will be precarious, depending on the will of Britain—Should it prove injurious, spite of all our efforts it may be eternal. Is this reciprocity? Is this a “full participation in the benefits of the British Constitution?”

No person who has read your address could have avoided remarking, that almost through the whole of it you have used the word *Populace* (doubtless by way of sneer) for *People*. I, Sir, should

should be as adverse as you, or any man, to submitting to the dictates of a mob, on subjects which they cannot understand; but at the same time I cannot accede to the doctrine, (even though supported by you and Montesquieu) that the *People* of Ireland are limited in number to three hundred.—You, Sir, have mentioned the late Mr. Burke; he was probably known to you, if so he must have been respected.—Suffer me to recommend to your perusal an essay of his, in which he treats of what he calls the virtual Representation of the People. This he computes to amount in England to about 400,000 persons, (probably here it is much less) and to these, he says, the Legislature ought to pay every deference and respect.

After stating several of the arguments of your opponents, you draw the following conclusion from them, which you mark with a note of admiration as if it were the height of absurdity, “ the populace (i. e. the whole people except “ 300) are, under certain circumstances, constitu- “ tionally entitled to dictate to their parliament, “ and the same populace are to decide whether “ these circumstances have arisen,” page 40. Now, Sir, perhaps it may encrease your admiration, to see *this conclusion, in these terms* distinctly avowed; but how will you wonder when you find that it is the doctrine, and pretty nearly the words of your favourite Blackstone himself, “ Whenever (says he) a question arises between
E “ the

“ the society at large, and any magistrate vested
 “ with power originally delegated by that society,
 “ it must be decided by the voice of the society
 “ itself: there is not upon earth any other tri-
 “ bunal to resort to.”†

But you say an absolute power must exist somewhere in every state: if you mean by absolute power that power which, bound by no Laws consults only its own will, I admit it. Where then has our Constitution placed it, you answer with the Parliament, I contend with the People: and not only is the absolute power of this state lodged with the people, but that of every independent‡ state existing. It is a maxim both of law and of common sense that there can be no right without a remedy, in the people the absolute physical power of the state is vested, and it would be absurdity to suppose absolute political power to be in other hands, for it would be to suppose an absolute power that would be perpetually liable to be controuled; there is not, nor has there ever been a single example from the eastern emperor to the Swiss republic, of a pure unqualified absolute government, i. e. where the ruling powers were restricted by no laws or customs whatsoever. These restrictions are different in different countries, hence the variety of *Constitutions* which may
 be

† Blackstone's Commentaries, Book i. Chap. 3.

‡. By independent I mean that is not in subjection to a foreign power.

be defined, the limits set to the authority of (what is usually called) the supreme power of the state.

I come now, sir, to another passage which I must take the liberty of transcribing at length, “ But if, spite of the security afforded by its “ frame and composition, the legislature should at “ any time tyrannize, must the people patiently “ endure oppression? I am far from maintaining “ any such doctrine; there are extreme cases “ where an oppressed people would be warranted “ in rising against its tyrants and shaking off their “ yoke, but they would in doing so be exercising “ no rights conferred by the Constitution, but “ recurring to the paramount and unalienable “ rights of human nature. I only contend that a “ *right of revolt* is not a constitutional privilege, “ but on the contrary *results from and presupposes* “ *the destruction of the Constitution*: that whilst “ the political fabric holds together, Parliament “ is absolute, and without controul, that to doubt “ its competence is to doubt the existence of the “ Constitution, and that from its decrees there “ lies no appeal but to the sword.” page 46. You have spent, Sir, 45 pages in endeavouring to establish the absolute power of parliament and that in consequence none of its acts can be a violation of the Constitution, and now in page 46 you directly contradict the whole of what you have laid down; here is the argument, parliament

is absolute, therefore nothing it can do will be a violation of the Constitution, though should it tyrannize an oppressed people will be warranted in rising against its Tyrants, but the right of revolt, *results from and presupposes* the destruction of the Constitution, which therefore must have been destroyed previous to the revolt taking place; by whom then must it have been destroyed? In this case on'y by Parliament. The Revolt not having yet taken place, there was no other means by which it could have been effected; so that after forty-six pages reading we find ourselves just where we were when we began.— We have the authority of Mr. Smith to say, that no act of the Parliament will violate the Constitution, we have likewise the authority of Mr. Smith to say, certain acts will destroy it.

If we could be absolutely certain that an incorporation of the Legislatures would be attended by an incorporation of the Countries, many, but far from all of the objections to the measure would be done away; but as this is an event more to be wished for than expected; as it is to be feared that narrow minded policy may still continue to consider the interest of the two Countries as distinct, that local prejudices may find their way into the Senate, that the Senate will be almost entirely British, and that the prosperity of Ireland must depend *for ever* upon its justice and impartiality,

impartiality, I cannot but think that to give up the superintendence of our own affairs would be a

Matter deep and dangerous,
As full of peril and advent'rous spirit
As to o'erwalk a current roaring loud
On the unsteadfast footing of a spear.

You insinuate that Union would “ substitute “ in the place of discord and degradation, internal freedom, harmony and peace ;” Page 59, but by what means it is to have this effect you have not condescended to inform us ; for my part the interest the public seems to take in the question, and the anxiety with which it is agitated, I am led to apprehend the very opposite result, “ *cum sibi quisque timet, quamquam est intactus et odit,*” its probable consequence appears to me to be, to disgust numbers of those who are now loyal, and to conciliate no one.

You set up the Scottish Union as an example to us, although you admit that “ great is the “ difference between the cases,” Page 62 ; indeed two cases could scarcely be conceived more dissimilar.—Ireland inseparably annexed to the Crown of Great Britain, Scotland merely joined to England by the accident of having the same Queen, and having just passed a law that at her death it would chuse a successor *different* from him who filled the Throne of England—The Parliament of Ireland pledging itself to stand or fall

fall with Great Britain—The Parliaments of Scotland and of England, vying with each other in acts of aggression: in the one case, the whole legitimate power of the country firmly attached to the connexion as it stands, in the other, no alternative left but complete Union, or entire separation.

Yet, you say, “ distinguishable as the cases
 “ may be, some resemblance between that of
 “ Scotland and Ireland may be traced. There,
 “ as here, we are informed by *De Foe*, that a
 “ strange and motley coalition of discord and
 “ factions formed the Anti-union band. There,
 “ as here, in aid of Parliamentary exertions,
 “ they studied to raise a storm without doors
 “ for the purpose of intimidation; addressees
 “ against the Union were sent round all the
 “ counties in which those who opposed it had
 “ any interest—There came up many of these
 “ in the name of counties, boroughs, &c. This
 “ made some noise abroad, but was very little
 “ considered there, when it was known by what
 “ arts and practices they were procured. But it
 “ may be said that this junction of discordant fac-
 “ tions was equivocal, that it might be a patriotic
 “ sacrifice of party difference to the object of
 “ effectually resisting the destructive measure of
 “ an Union—Was this the case? Hear from
 “ Tindal the common principle and motive
 “ which consolidated these various parties upon
 “ this occasion. All those who adhered inflex-
 ibly

“ ibly to the *Jacobite* interest opposed every step
 “ that was made towards a Union with great
 “ vehemence—Why? because they saw that it
 “ struck at the root of all their designs for a new
 “ Revolution.—Some future historian might per-
 “ haps think proper, in the case of Ireland, to
 “ adopt this sentence, with but slight variation,
 “ and record that all those who adhered to the
 “ *Jacobine* interest; vehemently opposed every
 “ step towards that Union which struck at the
 “ root of their revolutionary designs,” Pages 63,
 64. To the insinuations conveyed in this pas-
 sage, public notoriety is a sufficient answer; on
 its indecency I shall make no comment—the in-
 dignant reader has probably already expressed his
 reprobation of it in stronger terms than I can
 ever suffer to fall from my pen; one of the
 objects of this very indecorous paragraph seems
 to be to throw an imputation on the credit of
 the many county Meetings that are now holding
 thro’ the Kingdom and sending addresses against
 the projected measure, how these have been pro-
 cured (except in one instance) I do not pretend
 to *know*, but one county Meeting I was pre-
 sent at, and there resolutions were passed con-
 demning the measure in the most unequivocal
 terms, notwithstanding the opposition of a gen-
 tleman of the first connexions in the county,
 and of great personal popularity and address,
 who is supposed to possess much of the confidence,
 as he certainly does of the wages of Government,
 and

and who came down laden with letters from an absentee nobleman of high rank and large property expressly for the purpose of opposing them; however by all his “arts and practices” (and I assure you his exertions were not spared) he was able to induce but nine persons of every description to divide with him, the united incomes of seven of whom in the county I am sure would not amount to 1000l. a year: being determined to leave nothing undone that could tend to promote the ends of his mission, he then set forward a protest, but after it had lain many days open for signatures, the number of those who could be *prevailed on* to sign it was so contemptible that it has never made its appearance in public; from these circumstances, Sir, you may form an opinion whether the resolutions thus agreed to may be considered as speaking the genuine sense of the gentlemen of that county; of other counties I can say nothing.

In endeavouring to reconcile the different religious persuasions to this measure, you state “the great mass of the united Legislature would be protestant, then how impotent would be the anti-supremacy of a catholic minority,” page 68. In writing this paragraph could it have escaped you that the great mass of the united Legislature would be British, then how impotent would be the Opposition of an Irish Minority.

You

You say “ If Union practically excludes many
 “ protestants from that political importance which
 “ the present state of things permits them to
 “ enjoy (and doubtless Union will abridge the
 “ consequence of some, and greatly interfere
 “ with the ambitious views of many, as perhaps
 “ the opponents of the measure need not to be
 “ informed) then catholics may sit down the more
 “ contented under that exclusion to which the
 “ theory of the establishment has condemned
 “ them.” page 72. I should be ashamed to
 debate an argument which imputes principles so
 truly diabolical to so large and respectable a part
 of the nation; however anxious they may be for
 the participation of the privileges they claim,
 they surely would not purchase them by the de-
 basement of their country.

You seem to be perfectly reconciled to the
 losses that Dublin must sustain. “ at all events”
 you say “ for what this country lost in one quar-
 “ ter, the *might* be compensated in another, and
 “ the question is not what Dublin might lose,
 “ but what on an average Ireland might gain.”
 page 76. Now Sir, I cannot but doubt both the
 justice and the policy of depopulating a consider-
 able part of the country, and plunging a large
 portion of the inhabitants in utter ruin, in pursuit
 of speculative advantages to other parts of the
 kingdom and to other persons, the mischief ex-
 tends much farther, than to the immediate suf-
 ferers,

ferers, it tends to render precarious every possession in the community, *Spes et præmia in ambiguo, certa, funera et luctus.*

You do not “believe that Union would produce the crop of absentees that is expected,” and you think it would “replace those residents of whom it deprived us by a valuable class of men of which we stand in need.” page 77. This Sir, is matter of conjecture, and here, as in many other places, our sentiments are directly contrary. To my understanding it appears that Union would encrease absentees even in a greater degree than has been calculated; its immediate consequence must be, the emigration of a number of persons of the greatest opulence who are now resident, many of them either from infirmity or indolence will form establishments and domesticate in England, hence they will lose their influence in the places they represent, others will be chosen in their room, the same causes will have the same effects upon these, and so wave will succeed wave, until the country is drained of all its men of property and independence, the consequence of which must be, that elections will become (as is at present the case in Scotland) a mere form to ratify the orders of the Minister.—Nor will the emigration be confined to those whose duty it is to attend Parliament, and their connections, every one in pursuit of pleasure or preferment will necessarily remove to the scene where these are to be found.—but our
emigrants

emigrants however numerous are to be “replaced
 “by a valuable class of men of which we stand
 “in need,” who these are to be I confess I am yet
 to seek, nor can I find any clue in your work to
 direct me.—It cannot be by the manufacturer, he
 will have no inducement; for by the emigration
 of the wealthy, the consumption and consequently
 the demand for his goods will be lessened, it can-
 not be by the agriculturist, for to his prosperity
 extensive population is indispensable and therefore
 whatever tends to decrease population must tend
 to discourage his speculations.

I cannot refrain from expressing my surprise,
 that you should have thought that your argument
 would be strengthened by the authority of De
 Foe, (with extracts from whom you have filled
 many pages) an author of the meanest character,
 of the most notorious prostitution, who was ready
 to employ his pen in defiance of truth and decen-
 cy, in the service of any party that would pay
 him, and whose writings are entitled to about
 equal credit with the columns of the press of the
 Dublin Journal.—If, Sir, you have sought for no
 information relative to the Scottish Union, of
 which you have made so much use, but what is to
 derived from this historian, as you have thought
 proper to call him, you have been guilty of a very
 culpable remissness. In many facts, and in parti-
 cular in one very leading one, he has egregiously
 misled you.—From him you would infer that

Union, such as was at last effected, had been long desired by the people of Scotland, and had only been prevented from taking place before by the efforts of faction. Now, Sir, the direct contrary is the truth, a Union such as took place was never the wish of Scotland; it is true she was anxious to obtain, and took many steps to bring about, a fœderal Union, (such as now subsists between Great Britain and Ireland) but an Incorporating Union, to the very hour in which it was concluded, was loathed and abhorred by the mass of the people. The Commissioners themselves who managed on the part of Scotland, in the project they gave in, spoke only of a fœderal Union, though afterwards, induced by sundry *weighty* arguments, they consented to an incorporating one.—With this author I have nothing to do.

I have now, Sir, followed you through such of your arguments as appear to me to require observation; had I been writing generally in opposition to the project, I could have filled many more pages: numerous indeed, and important are the objections that must suggest themselves to every one who considers it with attention.—The necessity of sacrificing national pride and honour, which even you acknowledge to be “some security for national valour, liberty and virtue,” Page 9. The insecurity there would be of whatever terms were agreed on being adhered to—The dangerous innovation that would be made
even

even in the British Constitution, by admitting into the legislature so many members so peculiarly exposed to temptation—But on these, &c. &c. I shall not enlarge, my object being merely to defeat the mischief which might arise from your work—Your name was of sufficient importance to attract the public attention, your arguments plausible and imposing, studiously keeping out of view the subjection and insignificance this measure would reduce us to, and expatiating on the harmony and security, which you would persuade us, must be its consequence; thus exemplifying, in the most striking manner, the observation of the most eloquent and sagacious of the Latin Historians. * CETERUM LIBERTAS ET SPECIOSA NOMINA PRÆTEXUNTUR; NEC QUISQUE ALIENUM SERVITIUM, ET DOMINATIONEM SIBI CONCUPIVIT, UT NON EADEM ISTA VOCABULA USURPARET.

* Tacitus.

FINIS.

